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UNCLAS SECTION 01 OF 03 SANTO DOMINGO 002223

SIPDIS

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SUBJECT: DOMINICAN BANKING SERIES #5; BANINTER/BANCREDITO  
IN THE NEWS AND IN THE CAMPAIGNS

REF: SANTO DOMINGO 00745

11. (SBU) This is cable # 5 in a periodic series on the  
banking sector in the Dominican Republic. Sensitive but  
unclassified, entire text.

SIPDIS

BANINTER and Bancredito Back in the News and in the  
Campaigns

Presidential candidates are trading barbs over  
responsibility for the massive Baninter fraud and the  
defendants are lashing out against President Mejia's  
party. The Government filed civil suit in Miami on March  
126. The Dominican Supreme Court has dismissed defense  
efforts to impugn the examining judge, so the case begins  
to grind forward again. Defendants in the Bancredito case  
are targeted by an increasing number of criminal complaints  
filed by defrauded depositors.

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Baez and Alvarez Renta Launch Counterattacks against  
President's Party  
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The huge Baninter banking fraud case is making headlines  
again in the Dominican Republic. The most recent volley  
was fired by the defense team of Ramon Baez Figueroa, which  
filed a criminal suit on March 31 against prominent PRD  
party members (PPH faction) alleging extortion and misuse  
of public office. Baez's attorneys claim that current PRD  
campaign manager Eligio Jaquez, then Secretary of  
Agriculture, along with two other PPH members, received RD  
pesos 15 million in Baninter funds in the form of a  
fraudulent loan. That loan went to fund the initiative for  
constitutional reform that resulted in an amendment to  
electoral law, allowing President Mejia to run for a second  
term in office.

The defense team struck again on April 2, announcing to the  
press that they would accuse presidential advisor Hernani  
Salazar of taking a payment of RD 30 million pesos at the  
same time. They say that economic advisor Andy Dauhajre  
accepted USD 300,000 for his Foundation for Economy and  
Development. They say that after Easter week they will  
reveal more about "Emperor Malkun" (Central Bank Governor  
Lois Malkun) "as a leading member of the perverse  
conspiracy" against Baez Figueroa and about a former  
Central Bank Governor (presumably current Foreign Minister  
Guerrero Prats). One paper says that they will accuse Vice  
Governor Felix Calvo of accepting funds from Baninter.

Meanwhile, Luis Alvarez Renta's defense team was busy  
placing full page ads in the local dailies proclaiming his  
innocence and damning the Central Bank. The "innocence  
campaign" comes on the heels of local coverage of the law  
suit filed March 26 in the Southern District of Florida by  
the GODR (in the form of the Liquidation Commission of  
Banco Intercontinental, S.A.) alleging Alvarez Renta  
committed civil violations of the Racketeer Influenced and  
Corrupt Organizations Act (RICO) and fraudulent  
transactions under Florida state law.

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BANINTER as a Political "Hot Potato"  
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The Baez Figueroa lawsuit makes good on his defense team's  
threat to publish information potentially damaging to  
President Mejia. Mejia first mentioned Baninter as a  
campaign issue two weeks ago when he stated publicly that  
current presidential front runner and former president,  
Leonel Fernandez, must have been aware of irregularities  
within the Bank during his term in office. The Baez  
lawsuit answers, at least in part, Mejia's banter with the  
press, challenging anybody with damaging information

related to Baninter to come forward with it. Jaquez is trying to take the spotlight off the President, saying that the RD \$ 15 million loan that is the subject of the complaint, was a loan to him, used for PRD activity, and that he has regularly been repaying it. Interior Minister Pedro Franco Badia called the pro-government daily Listin Diario on April 1 and waved a copy of a 1999-2000 report on Baninter done by a financial consulting firm and delivered to Fernandez's Central Bank Governor Hector Valdez Albizu and the Banking Superintendent Vicente Bengoa Albizu. Franco Badia read aloud from the conclusions, "The Bank has a highly concentrated portfolio of risks, with 150 debtors representing 75.5 percent of the commercial lending, substantially increasing the level of risk. . The bank is losing funds to the extent that its capital is eroding ten percent per year." Badia asserted that the analysts suggested that, in its dire circumstances, the bank should elect either to provide a straightforward accounting of its situation or as a temporizing measure should use an artificial presentation of the data suggesting more liquidity than actually existed. "In either case," he read, "we face the sure demise of the bank" ("estamos ante la cronica de una muerte anunciada"). Franco Badia challenged Fernandez to explain the "millions of pesos" received by Fernandez's Fundacion Global -- "to show you that it was enough just to press a single button, when the Foundation's account was opened in Baninter, Fernandez received more than 60 million pesos through Luis Manuel Casado."

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Alvarez Renta Pointing the Finger at the Central Bank  
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In the Baninter background are the maneuverings of Luis Alvarez Renta. The Miami based law firm of Tew Cardenas, on behalf of the Dominican Government, filed a civil suit against Alvarez Renta on March 26th. When word of the suit made the press in the Dominican Republic, Alvarez Renta's defense team went on the offensive, publishing ads saying in part, "Once again the officials of the Central Bank...want to condemn Luis Alvarez Renta in the press, causing irreparable harm to his public image." One interesting aspect of his "innocence ads" is his statement that, "We trust in our (Dominican) judicial system." This is the first time we have heard anybody say that they trust in the Dominican judicial system.

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Judge Cleared to Continue Investigation  
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Perhaps the most important decision in the Baninter criminal case in the Dominican Republic took place with little fanfare. The Dominican Supreme Court ruled against the Baez Figueroa petition to remove the judge of instruction from the case. By ruling against Baez Figueroa, the court allows the criminal case against him, Alvarez Renta, Marcos Baez Cocco, and Lilian Castillo to move forward. Judge Ortiz Sanchez is now free to resume his daunting task of compiling evidence and preparing a bench memo on the criminal charges against the Baninter principals. Once Judge Ortiz Sanchez completes the fact finding stage of the case, it will pass to a judge or a judicial panel for trial.

Baez Figueroa's defense team has asked that its criminal complaint against the PPH members be attached to the original Baninter criminal case and assigned to Judge Ortiz Sanchez. No ruling has been made on that request to date. Because the underlying facts and players in both cases would be the same, attaching the PPH case to the Baninter case would make sense. However, it would slow down the Baninter case, perhaps delaying prosecution once again.

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BANCREDITO Takes Another Path  
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Far less prevalent in the press, but nevertheless moving forward at a steady pace, are claims against the former executives of Bancredito. In early March, Central Bank attorneys and officials gave testimony to the judge of instruction in the case. The original Bancredito criminal case filed by the Central Bank, which was delayed by the Attorney General's refusal to file the complaint, was only the first case opened against Bancredito executives. Since then, at least ten other criminal complaints against the former executives have been filed with the coordinating judicial administrator by various depositors in the failed bank, despite the negative opinion of the Santo Domingo District Attorney. In addition to naming former Bancredito President Manuel Arturo Pellerano and Vice President Juan Felipe Mendoza (subjects of the first criminal case), the new complaints implicate patriarch Maximo Pellerano and 27 Dominican businesses, including major Dominican firms in

the Pellerano group involved in telecommunications, banking and insurance.

Bancredito took another hit when, for the second time, its petition for injunction was denied. Bancredito attorneys had asked the court to suspend two Monetary Board resolutions that Bancredito claimed were damaging its interests. Passed in October 2003 and February 2004, these resolutions directed that certificates of deposit issued by Grupo Financiero Nacional (a Bancredito related entity) would not be guaranteed by the Central Bank. The denial of injunctive relief means that remaining Bancredito assets may continue to be subject to law suits and criminal complaints from those who feel they have been defrauded or robbed. In other words, the door is open for even more actions against former Bancredito executives and companies owned, in whole or in part, by Bancredito.

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Action and Comment  
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The Ambassador and emboffs continue to urge our contacts at all levels to press forward with prosecutions in the Dominican Republic against Baninter and Bancredito officials. The Ambassador again delivered anti-corruption messages in well attended speeches on February 25 to the Santo Domingo chapter of the American Chamber of Commerce and on March 19 the Dominican Diplomatic School. The USAID Director has taken advantage of a series of anti-corruption events for presidential candidates to spell out the USG position and urge Dominicans to fight corruption in the banks, in the courthouses and throughout society. The DCM and other emboffs raise banking fraud as an example of corruption and institutional weakness and urge action against it.

The emergence of the Baninter case as a political issue in the upcoming presidential elections gives the Dominican Republic another reminder to do the right thing. The criminal case, stalled since December, is now back on the rails. The example of the U.S. based case, even though it is a civil action, raises the stakes. The Dominican judicial system has an abysmal track record on fraud and corruption, but recent events give us hope that the Baninter case may actually go to trial some day.

12. Drafted by Angela Kerwin.

13. This report and others in the series are available on the classified SIPRNET at <http://www.state.sgov.gov/p/wha/santodomingo/> along with extensive other material.

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